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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,624	10/22/2001	Matthew Round	1487.0240000/DKSC/JDS	9694
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 03/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/807,624	Applicant(s) ROUND ET AL.	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 10-31, 33, 34 and 36-66 is/are pending in the application.
 4a) Of the above claim(s) 11-28, 51 and 52 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 53, 55 and 57-64 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10, 29-31, 33, 34, 36-50, 54, 56, 65 and 66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>3/22/06</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/1/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on July 1, 2005 has been considered as to the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5, 7-8, 10, 29-31, 33-34, 36-50, 54, 56 and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 1 of claim 1 only an aircraft seating unit is positively claimed. The aircraft, or more specifically the floor of the aircraft, is not positively claimed, but merely presented as being in the environment of the claimed elements. In line 11 of claim 1, the phrase positioning said back portion "substantially perpendicular to the floor of an aircraft" shows a combination of unclaimed elements (the aircraft floor) and claimed elements (the back portion). Furthermore, in line 4 of claim 34 and line 3 of claim 36, the phrase positioning the seating portion "inclined to the floor of the cabin" shows a combination of unclaimed elements (the floor of the cabin) and claimed elements (the seating portion). Additionally, in lines 2-3 of claim 41, the phrase positioning the pad in a plane "substantially parallel to that of the floor of the aircraft" shows a combination of unclaimed elements (the floor of the aircraft) and claimed elements (the pad). In lines

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2-3 of claims 42 and 56, the pad is positioned “substantially parallel to the aircraft floor” and “substantially perpendicular to the aircraft floor”, showing a combination of unclaimed elements (the floor of the aircraft) and claimed elements (pad). In lines 2-3 of claim 54, the pad is positioned for rotation in a plane “substantially parallel to that of the floor of the aircraft” showing a combination of unclaimed elements (the floor of the aircraft) and claimed elements (the pad). Finally, in line 2 of claim 65, a seating unit is “directly mounted to the floor of an aircraft cabin” showing a combination of unclaimed elements (the floor of the aircraft cabin) and claimed elements (seating unit). These combinations creates ambiguity with regards to what elements Applicant wishes to positively claim and therefore renders claims 1-5, 7-8, 10, 29-31, 33-34, 36-50, 54, 56 and 65 indefinite.

The following words/phrases lack sufficient antecedent basis:

- the take off position (claim 38, lines 2-3)

Claims 2-5, 7-8, 10, 29-31, 33-34, 36-37 and 39-50 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 3-5, 10, 34, 36-38 and 65-66 are rejected as best understood under 35 U.S.C. 102(b) as being anticipated by Legrand (EP 0 036 822 A1). With respect to claims 1 and 65, in Figure 1, Legrand discloses a seating unit (2) comprising a pair of seats (3)(4) facing in opposite directions and directly mounted to the floor of the aircraft as best depicted in Figure 3. Each of seats (3)(4) has a seating space (5)(6) and an extension space (12)(11). Seats (3)(4) are positioned either side of a longitudinal axis (18) where the seating space (5) of seat (3) extends over the longitudinal axis (18) towards the extension space (11) of seat (4) and the seating space (6) of seat (4) extends over the longitudinal axis (18) toward extension space (12) of seat (3). The seating spaces (5)(6) are larger than extensions spaces (12)(11). Each seat (3)(4) has a seat axis (unlabeled) represented by a dashed line that is substantially parallel to longitudinal axis (18) of each seat (3)(4). Furthermore, each seat has a side walls extending from corner pieces (53)(54)(57)(58) substantially parallel to the seat axis and the longitudinal axis (18). The seats each comprise a back portion (102) and a seating portion (unlabeled), located between pivot points (104) and an angular bend (unlabeled) shown in Figure 11. Said seating portion (unlabeled) being movable with said back portion (102), as indicated by the movement between phantom and solid lines shown in Figure 11, to allow said back portion (102) to move between an upright position (phantom lines) substantially perpendicular to the floor of an aircraft (un-illustrated) and a fully recline position (solid lines) in which said seat portion and said back portion form a flat surface.

With respect to claim 3, each of seats (3)(4) has an armrest (20) arranged along a common axis (unlabeled) defined by wall (17). Common axis (unlabeled) is substantially coincident with longitudinal axis (18).

With respect to claims 4-5, seats (3)(4) are contained within housings (unlabeled) consisting of walls (51)(52)(53)(54)(55)(56)(57)(58). Wall (17) is substantially coincident, yet slightly offset, from longitudinal axis (18).

Figure 11 shows how seats (3)(4) each comprise a back portion (102) and a seating portion (unlabeled), bordered by hinge (104) and the angular bend (unlabeled). The phantom and solid lines in Figure 11 show how the seating portion (unlabeled), bordered by hinge (104) and angular bend (unlabeled) is moveable to allow for the recline of back portion (102).

A secondary unit (unlabeled) bordered by angular bend (unlabeled) and hinge (105) in Figure 11 faces back portion (102) of seats (3)(4) and is positioned within the extension spaces (12)(11).

The seating unit (2) disclosed by Legrand is for use in rail, road, air and sea public transit vehicles (see translation lines 3-5).

The seating unit (2) has a back portion (102) and a seating portion (unlabeled) which are moveable together to a plurality of different positions lying between the solid and the phantom lines shown in Figure 11. In the solid line depiction, the seating portion is inclined to the floor of the cabin at a more extreme angle than the phantom line depiction. The phantom line depiction in Figure 11 is considered fully upright position while the solid line depiction is considered the take off position lessening the effect of

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the take-off angle on the seat occupant. Elements (112)(113) function as a locking mechanism locking the seat in various positions.

The seating unit includes one seat facing in one direction and a second seat facing in an opposite direction

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Legrand (EP 0 036 822 A1) in view of Cozzoli (2,480,322). As stated above, Legrand discloses all claimed elements without explicitly showing how seating unit (2) can be arranged such that each seat (3)(4) is facing substantially forward or aft.

Cozzoli teaches an arrangement of stretchers (18) within an aircraft (5) in which each stretcher is positioned to face either forward or aft.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to arrange seating unit (2) such that seats (3)(4) are aligned to face either forward or aft as taught by Cozzoli. Such an arrangement is beneficial in that when the aircraft quickly accelerates or decelerates, the seat occupant is not thrown sideways out of their seat.

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8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legrand (EP 0 036 822 A1) in view of Park (US2001/0000639). LeGrand reveals all claimed elements with the exception of a secondary unit spaced apart from said seat.

Park teaches the use of a secondary unit (304) that is spaced apart from the seating unit as seen in Figure 20 a.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to space the secondary unit (unlabeled) disclosed by LeGrand apart from the seating unit as taught by Park. Such modification allows for further adjustability of the seat and additional comfort for the user.

9. Claims 29, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legrand (EP 0 036 822 A1) in view of Park (WO 98/36967). As stated above, Legrand discloses all claimed elements with the exception of an in-flight entertainment unit comprising a housing, monitor, support arm, cocktail table, computer power point, audio output jack, condition indicator all mounted in a housing associated with another seat.

Park discloses an in-flight entertainment unit comprising a housing (226) with a monitor (238) which is pivotally mounted in order to be moved from a stored position to a viewing position (page 36, lines 9-20) and is mounted within a housing (226) associated with another seat, as seen in Figure 12b. Furthermore, Park teaches the use of a cocktail table (232) which is foldable between a "stowed position in the console and a deployed position outside the console" (page 43, line 25). The entertainment unit

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is mounted in a housing (226) which lies between two seats as seen in Figure 12b, and is therefore associated with two seats.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to insert the entertainment unit taught by Park between the seats (3)(4) of seating unit (2) disclosed by Legrand. Such an addition would further enhance the riding comfort of the seat occupant.

10. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over LeGrand (EP 0 036 822 A1) in view of Park (WO 98/36967) as applied to claim 29 above, and still further in view of May et al. (6,102,476). Legrand, as modified, reveals all claimed elements with the exception of a computer power point, an audio output jack and a condition indicator.

May et al. teaches the use of a computer power point (20), speakers (40) which are inherently connected to an audio output jack, and a condition indicator (45).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to incorporate the computer power point (20), speakers (40) and condition indicator (45) into the entertainment unit disclosed by Legrand, as modified. Incorporation of such elements would make the seating arrangement more conducive for business travelers, one of the primary customers of airlines these days.

Allowable Subject Matter

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11. Claims 39-50, 54 and 56 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 53, 55 and 57-64 are allowed.

Response to Amendment/Arguments

13. The amendment filed on December 27, 2005 has been considered in its entirety. Remaining issues are detailed in the above sections.

Applicant argues that it would not have been obvious to one of ordinary skill in the art at the time of the instant invention to combine the teachings of the LeGrand reference with those of the Park reference. In the instant rejection, Park is relied upon solely for his teaching of a secondary seating unit spaced apart from the primary seating unit. The Examiner maintains that this teaching is pertinent to the LeGrand reference in that it would provide the seat occupant with greater seat adjustability improving the comfort of the seat occupant.

Applicant further argues that the LeGrand reference does not pertain to aircraft seating. The reference specifically states that "the present invention related to the fitting out of public transport rail, road, air, sea vehicles and by corollary transit area" in lines 3-5 of the translation. While the seating arrangement may not meet today's stringent FAA regulations, this is not a requirement of the claimed invention and is therefore does not carry patentable weight.

LeGrand discloses a fully upright position in which the back portion is substantially perpendicular to the floor and a fully reclined position in which the back portion and seat portion form a flat surface. The fully upright position is indicated by the phantom lines shown in Figure 11. This position is substantially perpendicular to the normal position of a floor within an aircraft although the floor is not specifically defined. Furthermore, the claim does not require that the back portion and seat portion together form a flat surface. Each of the back portion and the seat portion are clearly flat as indicated in Figure 11 and therefore form a flat surface.

In light of the new rejection of claims over LeGrand alone, this action is made NON-FINAL.

Conclusion


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
March 22, 2006


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